

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

S.C. SUIT NO.1520 OF 1984

M/s.Indian Commerce and
Industries of Bombay .. Plaintiffs

Vs.

M/s.Shalu Textile Industries
of Bombay .. Defendants

Mr.S.B.Parikh for the plaintiffs

Mr.M.S.Fadia with Mr.K.T.Kukreja for the defendants

CORAM: S.U. KAMDAR, J.

DATE : 9TH AUGUST, 2005

P.C. :

1. The present suit is filed for the recovery of the sum of Rs.71,193.76 alongwith interest @ 21% per annum on the principal amount of Rs.46,154.80. Some of the material facts of the present case are briefly stated as under:

2. The defendants which are carrying on business as traders of the cloth material placed orders with the plaintiffs from time to time. Pursuant to the said orders, plaintiffs supplied to the defendants

Texturised Suitings worth Rs.1,47,494.80 under bill no.90 dt.8.6.81 for Rs.59,233.40, bill no.91 dated 8.6.81 for Rs.73,747.40 and Bill No.99 dt.10.6.81 for Rs.14,514/-. The aggregate amount of the aforesaid three bills is Rs.1,47,494.80. The plaintiffs delivered the said material to Process House of M/s.New Vinod Silk Mills at Dadar and issued necessary delivery orders nos.13 and 14, both dt.8.6.81 which has been accepted by the defendants at the foot of the account in respect of the said goods sold and delivered. According to the plaintiffs, defendants are liable to make payment of the aforesaid amount. It is the case of the plaintiffs that on 10.6.81 and 16.6.81, defendants made part payments of Rs.71,340/- and Rs.30,000/- respectively leaving behind balance amount of Rs.46,154.80. Thus, at the foot of the account, according to the plaintiffs, the aforesaid amount is due and payable.

3. The plaintiffs have written Registered A.D. letter dt.30.5.83 demanding the aforesaid payment but the defendant has failed and neglected to pay the amount. Accordingly, on 9.12.83, plaintiffs advocate issued notice upon the defendants demanding the

aforesaid amount with interest @ 21% p.a. However, the defendants have not paid nor replied to the said notice. Accordingly, the present suit has been filed.

4. Defendants are served. There is no written statement filed even after 21 years have expired. The learned counsel for the defendants stated that he is trying to contact his client but is unable to do so. Plaintiffs have tendered compilation of documents which are taken on record and marked Ex.P-1 collectively. In view of the fact that averments in the plaint are not controverted, I pass the following decree:

5. There shall be decree in favour of the plaintiffs and against the defendants for the sum of Rs.71,193.76 with interest @ 12% from the date of the suit till payment and/or realisation.